

SUPREME COURT OF THE UNITED STATES

③ 85-1246 RAYMARK INDUSTRIES, INC.  
v.  
BATH IRON WORKS CORPORATION ET AL.

⑥ 85-1253 EAGLE-PICHER INDUSTRIES, INC.  
v.  
UNITED STATES

④ 85-1288 RAYMARK INDUSTRIES, INC., ET AL.  
v.  
UNITED STATES

ON PETITIONS FOR WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

Nos. 85-1246, 85-1253 AND 85-1288. Decided May 19, 1986

The petitions for writs of certiorari are denied.

JUSTICE WHITE, dissenting.

In No. 85-1246, petitioner, an asbestos manufacturer, is the defendant in a products liability suit brought by the widow of a deceased employee of respondent's shipyard. Petitioner sought contribution from respondent on various theories, including a claim under § 905(b) of the Longshore and Harbor Workers' Compensation Act, 33 U. S. C. § 905(b). The United States Court of Appeals for the First Circuit held that § 905(b) covers only those torts that are within the reach of admiralty jurisdiction as defined in *Executive Jet Aviation Co. v. United States*, 409 U. S. 249 (1972). *Drake v. Raymark Industries*, 772 F. 2d 1007 (1985). The First Circuit concluded that ship construction does not satisfy the "maritime nexus" test of *Executive Jet*. As the First Circuit realized, its interpretation of the scope of § 905(b) conflicts with the decision in *Hall v. Hvide Hull No. 3*, 746 F. 2d 294 (CA5 1984), which holds that employees covered by the LHWCA who sue under § 905(b) need not satisfy the "mari-

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time nexus" test of *Executive Jet* so long as the underlying event took place on a ship on navigable water.

In Nos. 85-1253 and 85-1288, which involve third-party claims by asbestos manufacturers against the United States as vessel owner and shipyard employer, the First Circuit followed its holding in *Drake, supra*, regarding the scope of § 905(b). *In re All Maine Asbestos Litigation (PNS Cases)*, 772 F. 2d 1023 (1985).

I would grant certiorari to resolve the conflict presented in these cases.